

Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

13 cv 4735
(sr)

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. BRUCE ALBALADEJO 01-A-6831

2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. RICHARD CECERE

4. UNIT 45 Officer PUNTURIERO

2. JAMES NIWINSKI

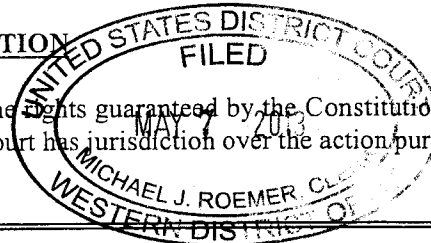
5. BARNHART, D.M.

3. GARY HAENSLY

6. _____

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.



3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: BRUCE ALBALADEJO 01-A-6831

Present Place of Confinement & Address: WENDE CORR. FAC. P.O. BOX 1187 ALDEN NEW YORK

14004-1187

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: *To provide information about more defendants than there is room for here, use this format on another sheet of paper.*

Name of Defendant: BARNHART, D.M.

(If applicable) Official Position of Defendant: DEPT. OF CORR. SGT.

(If applicable) Defendant is Sued in _____ Individual and/or X Official Capacity

Address of Defendant: WYOMING CORRECTIONAL FACILITY 3203 DUNBAR RD.
P.O. BOX 501 ATTICA, N.Y. 14011-0501

Name of Defendant: GARY HAENSLY

(If applicable) Official Position of Defendant: DEPT. OF CORR. OFFICER

(If applicable) Defendant is Sued in _____ Individual and/or X Official Capacity

Address of Defendant: WYOMING CORRECTIONAL FACILITY 3203 DUNBAR RD. P.O. BOX
501 ATTICA N.Y. 14011-0501

Name of Defendant: JAMES NIWINSKI

(If applicable) Official Position of Defendant: DEPT. OF CORR. OFFICER

(If applicable) Defendant is Sued in _____ Individual and/or X Official Capacity

Address of Defendant: WYOMING CORRECTIONAL FACILITY 3203 DUNBAR RD. P.O. BOX
501 ATTICA N.Y. 14011-0501

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
 Yes _____ No X

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:
 Plaintiff(s): N/A
 Defendant(s): N/A
2. Court (if federal court, name the district; if state court, name the county): N/A
3. Docket or Index Number: N/A
4. Name of Judge to whom case was assigned: N/A

Page 2. continuation of Defendants information

Name of Defendant: Richard Cecere

Official capacity: Dept. of Corr. Officer/C.O.

Defendant is sued in an official capacity

Address of defendant: Wyoming Correctional facility 3203 Dunbar
Rd. P.O. Box 501 Attica N.Y. 14011-0501

Name of Defendant: Officer Punturiero of Unit 45 response team

Official capacity: Dept. of Corr. Officer/C.O.

Defendant is being sued in an official capacity

Address of Defendant: Wyoming Corr. Fac. P.O. Box 501 Attica,
N.Y. 14011-0501

5. The approximate date the action was filed: N/A

6. What was the disposition of the case?

Is it still pending? Yes No N/A

If not, give the approximate date it was resolved. N/A

Disposition (check the statements which apply): N/A

 Dismissed (check the box which indicates why it was dismissed):

 By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

 By court for failure to exhaust administrative remedies;

 By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

 By court due to your voluntary withdrawal of claim;

 Judgment upon motion or after trial entered for

 plaintiff

 defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes No N/A

If Yes, complete the next section. NOTE: *If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A

2. District Court: N/A

3. Docket Number: N/A

4. Name of District or Magistrate Judge to whom case was assigned: N/A

5. The approximate date the action was filed: N/A

6. What was the disposition of the case?

Is it still pending? Yes No N/A

If not, give the approximate date it was resolved.

Disposition (check the statements which apply): N/A

Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | * • Excessive Force * | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to **42 U.S.C. § 1997e(a)**, "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) 7-1-2010,

defendant (give the **name and position held** of **each defendant** involved in this incident) BARNHART D.M.;

(SGT.)- OFFICER GARY HAENSLY- OFFICER JAMES NIWINSKI- OFFICER CECERE R.A.

and OFFICER PUNTIUERO OF UNIT 45

did the following to me (briefly state what each defendant named above did): I was escorted to the foyer by C.O.

HAENSLY, he put me on the wall, C.O. CECERE arrived and apt frisked me, then C.O. NIWINSKI came

in and asked what was going on. C.O. HAENSLY then became verbally and physically abusive placing
his hand on my head and attempting to smash my head into the wall, in being unsuccessful,

I was then assaulted and beaten excessively by the three officers. SGT. BARNHART and C.O.

PUNTIUERO OF UNIT 45 arrived, and C.O. PUNTIUERO joined in on the assault. I was then dragged
to a facility van and taken to the hospital where the assault continued with the participation

of SGT. BARNHART. I was handcuffed and still I was being hit with baton's kicks and closed hand
fists.

The constitutional basis for this claim under 42 U.S.C. § 1983 is: EXCESSIVE FORCE under the 8th amend.
of the united states Constitution.

The relief I am seeking for this claim is (briefly state the relief sought): MONEY DAMAGES for the

Violation of my constitutional rights and for pain and suffering I've been experiencing as a
result of the actions of these officers.

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? X Yes No If yes, what was the result? Denied

Did you appeal that decision? X Yes No If yes, what was the result? upheld

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

A. SECOND CLAIM: On (date of the incident) N/A,

defendant (give the **name and position held** of **each defendant** involved in this incident)

did the following to me (briefly state what each defendant named above did): N/A

The constitutional basis for this claim under 42 U.S.C. § 1983 is: N/A

The relief I am seeking for this claim is (briefly state the relief sought): N/A

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes No If yes, what was the result? N/A

Did you appeal that decision? Yes No If yes, what was the result? N/A

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so: N/A

If you have additional claims, use the above format and set them out on additional sheets of paper.

6. RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

I am seeking monetary damages for the violation of my right to be free from harm by the Dept.
of Corr. Serv. employee's, and for the pain and suffering I've had to go through as a result
of those actions.

Do you want a jury trial? Yes X No

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4-15-13
(date)

NOTE: *Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.*

Bruce Aladejo

Signature(s) of Plaintiff(s)